

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. 1:22-cv-20621**

MARTHA AYME,

**Plaintiff,**

v.

KENDALL CREDIT AND BUSINESS  
SERVICE INC,

**Defendant.**

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**COMPLAINT**

Plaintiff Martha Ayme (“Plaintiff”) sues Defendant Kendall Credit and Business Service Inc (“Defendant”) for violations of the Florida Consumer Collection Practices Act (“FCCPA”) and the Fair Debt Collection Practices Act (“FDCPA”)

**JURISDICTION AND VENUE**

1. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, and 28 U.S.C. § 1337.
2. Supplemental jurisdiction exists for the claims arising under FCCPA pursuant to 28 U.S.C. § 1367.
3. Venue in this District is proper because Plaintiff resides here, Defendant transacts business here, and the complained conduct of Defendant occurred here

**PARTIES**

4. Plaintiff is a natural person, and a citizen of the State of Florida, residing in Miami-Dade County, Florida.
5. Defendant is a Florida corporation, with its principal place of business located in Miami, Florida. .

**DEMAND FOR JURY TRIAL**

6. Plaintiff, respectfully, demands a trial by jury on all counts and issues so triable.

**FACTUAL ALLEGATIONS**

7. On a date better known by Defendant, Defendant began attempting to collect a debt (the “Consumer Debt”) from Plaintiff.

8. The Consumer Debt is an obligation allegedly had by Plaintiff to pay money arising from a transaction between the creditor of the Consumer Debt, Baptist Outpatient Center, and Plaintiff (the “Subject Service”).

9. The Subject Service was primarily for personal, family, or household purposes.

10. Defendant is a business entity engaged in the business of soliciting consumer debts for collection.

11. Defendant is a business entity engaged in the business of collecting consumer debts.

12. Defendant regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.

13. Defendant is not lawfully registered with the Florida Office of Financial Regulation as a “Consumer Collection Agency.”

14. Defendant maintains all the records specified in Rule 69V-180.080, Florida Administrative Code.

15. The records specified by Rule 69V-180.080, Florida Administrative Code, of which Defendant does maintain, are current to within one week of the current date.

16. For example, Defendant maintains and keeps up-to-date within seven (7) days the records required by, *inter alia*, Florida Administrative Code Rule 180.080(1), (3), (6), (7), (9), (10), and (11).

17. Further, Defendant has written policies and procedures for the secure handling of all consumer documents and information received in the course of collecting a debt from a consumer as required by Rule 69V-180.090(2).

18. Defendant cannot lawfully collect consumer debts from Florida consumers because Defendant failed to maintain a valid registration.

19. Defendant is a “debt collector” within the meaning of 15 U.S.C. § 1692a(6).

20. Defendant is a “person” within the meaning of Fla. Stat. § 559.72.

21. On a date better known by Defendant, Defendant transmitted Plaintiff’s personal information to a third-party (the “Third-Party”).

22. The personal information Defendant transmitted to the Third-Party included, but was not limited to: [1] Plaintiff’s name; [2] Plaintiff’s address; [3] the existence of the Consumer Debt; [4] the amount of the consumer debt; [5] the creditor of the Consumer Debt; [6] that Plaintiff was the alleged debtor of the Consumer Debt; [7] information regarding the Subject Service; and [8] that Plaintiff did not pay the Consumer Debt and/or defaulted on the Consumer Debt (collectively, the “Transmitted Information”).

23. The Third-Party, of whom Defendant transmitted Plaintiff’s personal information to, compiled Plaintiff’s personal information and prepared a letter that was to be sent to Plaintiff in an attempt to collect the Consumer Debt.

24. Defendant’s transmission of Plaintiff’s personal information to the Third-Party was a communication in connection with the collect of the Consumer Debt.

25. In addition to transmitting Plaintiff’s personal information to the Third-Party, Defendant also transmitted Plaintiff’s personal information to *other* third-party entities in connection with the collection of the Consumer Debt. Defendant transmitted such information to

these *other* third-party entities by, *including but not limited to*: [1] utilizing “skip trace” services; [2] utilizing bankruptcy, SCRA, probate, and other “scrubbing” services; and [3] utilizing independent third-party contractors to attempt to collect the Consumer debt from Plaintiff.

26. On a date better known by Defendant, Defendant sent the letter prepared and/or complied by the Third-Party to Plaintiff, of which was internally dated August 07, 2021, (the “Collection Letter”) in an attempt to collect the Consumer Debt.

27. Attached as Exhibit “A” is a copy of Collection Letter.

28. The Collection Letter is an action to collect a debt by Defendant.

29. Defendant is an entity required to register as a consumer collection agency with the Florida Department of State, *as per* Fla. Stat. § 559.553(1), to lawfully collect consumer debts from Florida consumers.

30. Defendant is not lawfully licensed to collect consumer debts from Florida consumers in accordance with Fla. Stat. § 559.553.

31. Defendant does not fall within any of the exemptions contained within Fla. Stat. § 559.553(3).

32. Defendant cannot legally collect, or attempt to collect, the Consumer Debt from Plaintiff without first registering, and thereafter maintaining, a valid consumer collection agency license in accordance with Fla. Stat. §§ 559.553(1) & (2).

33. Defendant’s collection activities against Plaintiff constitute a criminal misdemeanor under Florida law. *See* Fla. Stat. § 559.785.

34. Defendant’s transmission of Plaintiff’s personal information to the Third-Party is an explicit violation of § 1692c(b) of the FDCPA. *See Hunstein v. Preferred Collection & Mgmt. Servs.*, No. 19-14434, 2021 U.S. App. LEXIS 11648 (11th Cir. Apr. 21, 2021).

35. The Collection Letter contains a bar code, discreet tracking numbers, and/or Quick Response (“QR”) code, of which are indicative of Defendant’s use of the Third-Party to prepare, print, package, compile, and/or otherwise send the Collection Letter.

36. Defendant knew that the Transmitted Information constituted an unlawful transmission of Plaintiff’s personal information in violation of § 1692c(b) of the FDCPA.

**COUNT 1**  
**VIOLATION OF 15 U.S.C. § 1692e, e(2)(A), e(5), & § 1692e(10)**

37. Plaintiff incorporates by reference ¶¶ 7-36 of this Complaint.

38. Defendant is liable to Plaintiff and the FDCPA Class for attempting to collect consumer debts from Florida consumers without first registering and, thereafter, maintaining a valid consumer collection agency license in accordance with Florida law. Fla. Stat. § 559.553.

39. Here, Defendant mailed the Collection Letter to Plaintiff in an attempt to collect the Consumer Debt, and in so doing, Defendant engaged in activity which Florida requires licensure to be valid and otherwise lawful; however, at all times relevant, Defendant was not registered as a consumer collection agency with the Florida Department of State, as required by Fla. Stat. § 559.553.

40. Defendant’s failure to obtain a consumer debt collection license, as mandated by Florida Statutes § 559.553, while actively engaging in debt collection in the State of Florida violates 15 U.S.C. § 1692e & e(10) because attempting to collect a debt while not licensed as required by Florida law is a false, deceptive, and misleading practice.

41. Defendant’s failure to obtain a consumer debt collection license as mandated by Florida Statutes § 559.553, while actively engaging in debt collection in the State of Florida, violates 15 U.S.C. § 1692e(2)(A) because attempting to collect a debt and/or actually collecting a

debt while not licensed as required by Florida law constitutes a false representation of the character and legal status of the underlying debt.

42. Defendant's failure to obtain a consumer collection agency license, as mandated by Florida Statutes § 559.553, while attempting to collect consumer debts from Florida consumers is a violation of 15 U.S.C. § 1692e(5) because the Collection Letter is a threat to take action that cannot legally be taken. For example, the Collection Letter causes the least sophisticated consumer to believe that Defendant may lawfully collect *or even attempt to collect* the Consumer Debt when, in reality, Defendant had no such authority or lawful ability.

43. WHEREFORE, Plaintiff, respectfully, requests this Court to enter a judgment against Defendant, awarding Plaintiff the following relief:

- (a) Statutory and actual damages as provided by 15 U.S.C. § 1692k;
- (b) Costs and reasonable attorneys' fees pursuant to 15 U.S.C. § 1692k; and
- (c) Any other relief that this Court deems appropriate under the circumstances.

**COUNT 2**  
**VIOLATION OF 15 U.S.C. § 1692c(b)**

44. Plaintiff incorporates by reference ¶¶ 7-36 of this Complaint.

45. Pursuant to § 1692c(b) of the FDCPA, "*a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.*" 15 U.S.C. 1692c(b) (emphasis added).

46. As set forth above, Defendant's transmission of Plaintiff's personal information to the Third-Party violates § 1692c(b) of the FDCPA. *See Hunstein*, No. 19-14434, 2021 U.S. App. LEXIS 11648 ("[w]e hold (1) that a violation of § 1692c(b) gives rise to a concrete injury in fact under Article III and (2) that the debt collector's transmittal of the consumer's personal information

to its dunning vendor constituted a communication ‘in connection with the collection of any debt’ within the meaning of § 1692c(b).”) Accordingly, Defendant violated § 1692c(b) of the FDCPA when it transmitted Plaintiff’s personal information to the Third-Party.

47. WHEREFORE, Plaintiff, respectfully, requests this Court to enter a judgment against Defendant, awarding Plaintiff the following relief:

- (a) Statutory and actual damages as provided by 15 U.S.C. § 1692k;
- (b) Costs and reasonable attorneys’ fees pursuant to 15 U.S.C. § 1692k; and
- (c) Any other relief that this Court deems appropriate under the circumstances.

DATED: March 1, 2022

Respectfully Submitted,

/s/ Thomas J. Patti

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